

19 January 2018

**Energy Markets Policy Team,
Ministry of Business, Innovation and Employment,
Wellington.**

By email to energymarkets@mbie.govt.nz

RE: Terms of Reference for Electricity Retail Price Review

The Electricity Networks Association (ENA), which represents 27 electricity distribution businesses (EDBs), welcomes the Government's review into retail electricity prices, and, in principle, supports the draft terms of reference.

The review should allow a thorough and transparent examination of the issues around cost-effectiveness, fairness and affordability in New Zealand's electricity supply chain on behalf of all consumers.

As the structure and processes supporting the review become clearer, the ENA would welcome the opportunity to assist the review in achieving a constructive outcome that is beneficial for New Zealand electricity users in the long term.

Our specific suggestions or comments around the draft terms of reference are:

1. Sequencing the review into stages

The terms of reference for the review are quite broad, and this raises the possibility of the review being broken into stages to tackle areas of immediate and then lesser importance.

For example, while the ENA supports the low-fixed charge's inclusion in the draft terms of reference, the LFC regulations could be removed from the scope and handled immediately and separately.

The impending payment of winter energy supplements, which targets energy poverty much more effectively than the unfocused and unfair low-fixed charge, creates the perfect window for prompt removal of the low-fixed charge, or the start of a transition away from regulated low-fixed charges.

Assuming that LFC reform is progressed, removal of the LFC from the scope will allow the review to focus on other areas of perceived importance.

In summary, the ENA urges the government to remove the low fixed charge as soon as possible, and not hold over a decision until the completion of the full review.

2. Considerations around network sustainability and resilience

The overriding objective of the review, as stated by the terms of reference, is to examine whether the price paid by consumers of electricity is fair and equitable, noting regional and customer segmentation variations.

The ENA suggests that consideration is also given to the important issues of environmental sustainability (e.g. the desire to de-carbonise the wider New Zealand economy), as well as network sustainability and resilience.

Sustainability needs to be considered as part of determining efficient expenditure of EDBs, which must invest, appropriately plan and be accountable for maintaining stability of consumers' electricity networks for the long-term.

These issues, and any future policy settings the Government might put in place around them, can potentially have a significant impact on costs and prices of both electricity and of other sector outputs.

3. Consideration of wider regulatory issues

In addition to the points above, there are elements of the wider regulatory regime and policy settings that have a material effect on EDBs, examples of which include:

- **the Health and Safety at Work Act 2015.** While this has enhanced New Zealand's health and safety regime, it has had a significant effect on working practices and costs faced within the electricity supply industry, and increased outages for consumers.
- long-standing deficiencies identified in the **Electricity (Hazards from Trees) Regulations 2003**, which continue to hamper EDB efforts to effectively and efficiently manage the hazards that vegetation poses on electricity distribution assets, causing significant threats to safety and security of supply, and increased network operating costs (and therefore the costs paid by consumers).

4. Out of Scope

The ENA fully supports the draft terms of reference excluding issues that have been subject to extensive scrutiny, consultation and litigation – such as the Input Methodologies, which determine how Transpower and distributors are regulated under Part 4 of the Commerce Act.

The Input Methodologies were reviewed in a Commerce Commission process which began with problem definition in 2015, followed by consultations, draft decisions, and then final decisions. It is a process which, for distributors, was completed in late 2017. We agree that there is no need to reopen what was an exhaustive and thorough review process.

5. Provision of data for the review

Under the Information Disclosure requirements of Part 4 of the Commerce Act, EDBs regularly provide significant information regarding operating performance, pricing and financial data to the Commerce Commission.

EDBs also disclose further information to both the Electricity Authority and the Ministry for Business, Innovation and Employment.

While the ENA and its members will willingly respond to the review's information requirements, we would urge the reviewers, wherever possible, to draw upon pre-existing sources of detailed historic information to minimise the need for EDBs to resupply information that is already publicly available.

It is worth noting that retail reviews in the UK and Australia reviewed information such as customer engagement, customers on optimal tariffs, and the extent of competition and concentration in markets, which all required sourcing information that is not readily available in the public domain.

6. Clarification required

Under section 3 of the terms of reference, the meaning of the second bullet point referring to the "existence of, or potential for, informational asymmetries" is unclear and could benefit from further explanation and clarification.

7. Offshore Reviews

While the structure and process of the review have not yet been detailed, we would also encourage the Government to draw on the experience of two similar inquiries into electricity market issues recently undertaken in the UK and Australia (the latter still ongoing). Specifically, these are:

- The Energy Market Investigation, carried out by the UK Competition and Markets Authority from 2014 to 2016.
- The Retail Electricity Pricing Inquiry, currently being carried out by the Australian Competition and Consumer Commission.

These reviews will assist in identifying the relevant information the New Zealand review will need to consider, such as whether customers are engaged with their electricity options and are obtaining sufficient value and benefit from the current market design.

Finally, the ENA and its members look forward to working with the Government on this review, and we appreciate the opportunity to give feedback on the draft terms of reference and, presently, provide information and submissions to the reviewer.

If the ENA can be of any assistance, please contact either myself at GPeters@electricity.org.nz or David deBoer, ENA's Principal Advisor Regulation and Pricing, David@electricity.org.nz, 04 555 0074.

Yours sincerely

A handwritten signature in black ink, appearing to read 'GPeters', written in a cursive style.

Graeme Peters
Chief Executive
Electricity Networks Association